

Office of the Secretary of the Treasury

§ 10.23

§ 10.8 Customhouse brokers.

Nothing contained in the regulations in this part shall be deemed to affect or limit the right of a customhouse broker, licensed as such by the Commissioner of Customs in accordance with the regulations prescribed therefor, in any customs district in which he is so licensed, at the office of the District Director of Internal Revenue or before the National Office of the Internal Revenue Service, to act as a representative in respect to any matters relating specifically to the importation or exportation of merchandise under the customs or internal revenue laws, for any person for whom he has acted as a customhouse broker.

Subpart B—Duties and Restrictions Relating to Practice Before the Internal Revenue Service

§ 10.20 Information to be furnished.

(a) *To the Internal Revenue Service.* No attorney, certified public accountant, enrolled agent, or enrolled actuary shall neglect or refuse promptly to submit records or information in any matter before the Internal Revenue Service, upon proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, or shall interfere, or attempt to interfere, with any proper and lawful effort by the Internal Revenue Service or its officers or employees to obtain any such record or information, unless he believes in good faith and on reasonable grounds that such record or information is privileged or that the request for, or effort to obtain, such record or information is of doubtful legality.

(b) *To the Director of Practice.* It shall be the duty of an attorney or certified public accountant, who practices before the Internal Revenue Service, or enrolled agent, when requested by the Director of Practice, to provide the Director with any information he may have concerning violation of the regulations in this part by any person, and to testify thereto in any proceeding instituted under this part for the disbarment or suspension of an attorney, certified public accountant, enrolled agent, or enrolled actuary, unless he believes in good faith and on reason-

able grounds that such information is privileged or that the request therefor is of doubtful legality.

[31 FR 10773, Aug. 13, 1966, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.21 Knowledge of client's omission.

Each attorney, certified public accountant, enrolled agent, or enrolled actuary who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by the revenue laws of the United States to execute, shall advise the client promptly of the fact of such noncompliance, error, or omission.

[42 FR 38352, July 28, 1977, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.22 Diligence as to accuracy.

Each attorney, certified public accountant, enrolled agent, or enrolled actuary shall exercise due diligence:

(a) In preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;

(b) In determining the correctness of oral or written representations made by him to the Department of the Treasury; and

(c) In determining the correctness of oral or written representations made by him to clients with reference to any matter administered by the Internal Revenue Service.

[35 FR 13205, Aug. 19, 1970, as amended at 42 FR 38352, July 28, 1977; 57 FR 41095, Sept. 9, 1992]

§ 10.23 Prompt disposition of pending matters.

No attorney, certified public accountant, enrolled agent, or enrolled actuary shall unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

§ 10.24

§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

No attorney, certified public accountant, enrolled agent, or enrolled actuary shall, in practice before the Internal Revenue Service, knowingly and directly or indirectly:

(a) Employ or accept assistance from any person who is under disbarment or suspension from practice before the Internal Revenue Service.

(b) Accept employment as associate, correspondent, or subagent from, or share fees with, any such person.

(c) Accept assistance from any former government employee where the provisions of § 10.26 of these regulations or any Federal law would be violated.

[44 FR 4943, Jan. 24, 1979, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.25 Practice by partners of Government employees.

No partner of an officer or employee of the executive branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall represent anyone in any matter administered by the Internal Revenue Service in which such officer or employee of the Government participates or has participated personally and substantially as a Government employee or which is the subject of his official responsibility.

[31 FR 10773, Aug. 13, 1966, as amended at 35 FR 13205, Aug. 19, 1970]

§ 10.26 Practice by former Government employees, their partners and their associates.

(a) *Definitions.* For purposes of § 10.26, (1) *Assist* means to act in such a way as to advise, furnish information to or otherwise aid another person, directly or indirectly.

(2) *Government employee* is an officer or employee of the United States or any agency of the United States, including a *special government employee* as defined in 18 U.S.C. 202(a), or of the District of Columbia, or of any State, or a member of Congress or of any State legislature.

(3) *Member of a firm* is a sole practitioner or an employee or associate

31 CFR Subtitle A (7-1-02 Edition)

thereof, or a partner, stockholder, associate, affiliate or employee of a partnership, joint venture, corporation, professional association or other affiliation of two or more practitioners who represent non-Government parties.

(4) *Practitioner* includes any individual described in § 10.3(e).

(5) *Official responsibility* means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action, with or without knowledge of the action.

(6) *Participate* or *participation* means substantial involvement as a Government employee by making decisions, or preparing or reviewing documents with or without the right to exercise a judgment of approval or disapproval, or participating in conferences or investigations, or rendering advice of a substantial nature.

(7) *Rule* includes Treasury Regulations, whether issued or under preparation for issuance as Notices of Proposed Rule Making or as Treasury Decisions, and revenue rulings and revenue procedures published in the Internal Revenue bulletin. *Rule* shall not include a *transaction* as defined in paragraph (a)(9) of this section.

(8) *Transaction* means any decision, determination, finding, letter ruling, technical advice, contract or approval or disapproval thereof, relating to a particular factual situation or situations involving a specific party or parties whose rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service, or other legal rights, are determined or immediately affected therein and to which the United States is a party or in which it has a direct and substantial interest, whether or not the same taxable periods are involved. *Transaction* does not include *rule* as defined in paragraph (a)(7) of this section.

(b) *General rules.* (1) No former Government employee shall, subsequent to his Government employment, represent anyone in any matter administered by the Internal Revenue Service if the representation would violate 18 U.S.C.